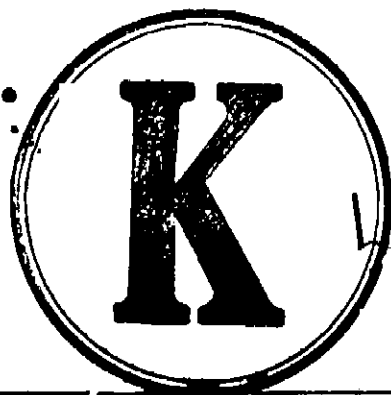


1953.



File No. Fees Drafts

Legal DEPARTMENT

C BRANCH

53.

Subject:—

Fees claimed by the
D. G. Ps., for drafting
legal documents under
rule 43 of the L.O.Rs.

48CE

File No. Fees Drafts/53.

Std. Sectt. Slip 24 B a

W O 9 - C

C O N T E N T S.

Legal Department File No. Fee. Drafts. 53

Sr.No:	R.I./C.No.	Subject	Pages.
--------	------------	---------	--------

24706/c
7.12.53.

Bills for drafting Complaints -

affene v/s 86. I.P.C..

Karwar Dist. Mch.

Complaints v/s. 471 read

with S. 467 1- I.P.C. 1-71

135

Below letter of the Sub-Government Pleader, Honavar dated 20-1-1953.

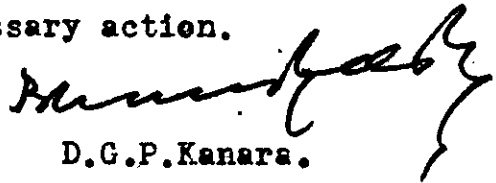
No. 66 of 1953.
Karwar, dated 30th January 1953.

R.W.Cs. to the R.L.A. Bombay through the D.M. Kanara

2. This is a Bill submitted by the Sub-Government Pleader of Honavar. He does not draw any monthly remuneration. It is only occasionally that some criminal cases before Local Magistrates are entrusted to him. He claims remuneration for drafting 2 complaints of the Forest Department. The Forest Department has to conduct its own cases unless they involve questions of law or property of good value. As Sub-Government pleader he was approached by the Forest Department and he had to draft these complaints. The question therefore is as to whether he is entitled to fees under Rule 22 of the Law Office Rules. There has been no such precedent during my period. Hence I have forwarded this for necessary action.

RD 7441

COLLECTOR'S OFFICE KANARA.	
File No.	6741
Date of Receipt	30 JAN-1953


D.G.P. Kanara.

N.O. TRF 4067

August 4 - 2-1953.

Forwarded with compliments to the

to R. A. J. B. on 10/12/53

Microfilm of 1000

Added to collection
45

41

From: - L. H. Prabhu B.A. LL.B

Sub. Government Pleader

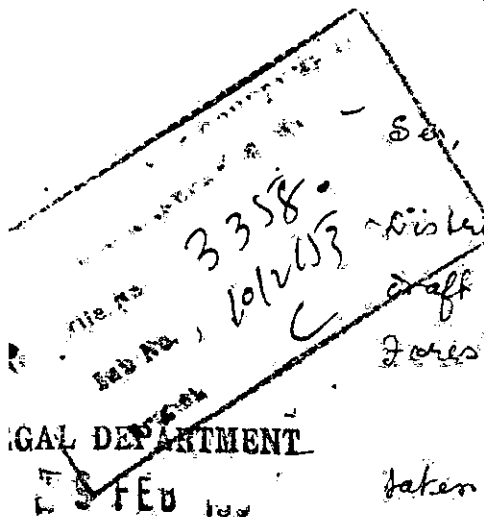
Honavar

N. Kanara

To

The Legal Remembrancer

Bombay State, Bombay.



By order No T.R.D 7441 dated 17-9-1951 of the District Magistrate Kanara, Kanara I was required to draft two criminal complaints to be filed by the Range Forest Officer, Honavar in the Court of R.H.F.C Honavar.

2. From the documents supplied and instructions taken from the Range Forest Officer Honavar, I drafted two criminal complaints and gave the draft of the same to the Range Forest Officer Honavar. The receipt obtained by me from him is enclosed herewith. The complaints were later on filed in the Court of R.H.F.C Honavar & are being proceeded with. These

3. I am entitled to fees regarding each of the drafts, as per rule 22, said officers (condition of service).

Rules. I took two days for each case to study the papers into instructions and to prepare the draft

4. I therefore request That I may be granted at the rate of Rs 50/- per draft. — in all Rs 100/-.

yours faith fully

L.H. Sublin

Sub. Dist. Pleader.

Honavar

Honavar }
20-1-1953 }

Respectfully submitted through to District Pleader
Kanara, Kanwar.

Honavar }
20-1-1953 }

L.H. Sublin

Sub. Dist. Pleader

Honavar

539415

Received from Shri L.H. Prabhu, B.A., LL.B., Sub-Government Pleader, Honwar, the draft of two legal documents prepared by him as per orders of the District Magistrate, Honwar, as under:-

1. Draft of criminal complaint to be filed by Range Officer, Honwar in the Court of M.D.J. Honwar, against the accused Ramdas Laxman Kiri, under Section 26(1)(f), 41(2) and Rule 30 of the Forest Act, 1927, as per orders No. F.R.D. 744 of 15/11-1901 of District Magistrate, Honwar.

Draft of criminal complaint to be filed by Range Officer, Honwar in the Court of M.D.J. Honwar, against the accused Santalin Javel under Section 26(1)(f) and 41(2) of Indian Penal Code - as per orders No. 7407 of 15/11-1901 of District Magistrate, Honwar.

Honwar,)
15-11-1901)

O. M. Prabhu
Range Officer, Honwar.

No. 3287/C. 741 9
Office of the
Remembrancer of Legal Affairs,
Bombay Castle (Bombay No.1), 14th February 1953.

MEMORANDUM.

With reference to his application dated the 20th January 1953 requesting for special fees under rule 22 of the Law Officers (Conditions of Service) Rules the Sub-Government Pleader, Honavar is requested to forward to this office, for perusal, Copies of 2 Criminal complaints, he drafted for the Forest Department.

OC. E.B.
for Remembrancer of Legal Affairs.

unmd 19/2
Sub-Govt. Pldr
Signature
To
18/2
19/2/53
Sub-Government Pleader,
Honavar.

Through the District Magistrate,
Kanara.

BM.
18.2.

Order after issue
Await Draft
Complain 5 p.m. Sale SP
Tomorrow till 26.2.1953.

20/2

Resubmitted
2 is may further
await till 26.3.1953.

3.143

85

11/11
12/3/53

The State of Bombay - by

O.P. Mathews

Range Forest Officer, Honavar.

Complainant

VS.

Santalin Saver, Christian, Roman

Catholic, aged about _____ years, re-

siding at Karikurve in Honavar Taluka.

Accused.

The above named complainant begs to submit this complaint under section 186 and 201 of the Indian Penal Code.

1. On 20-2-1951 at about 5 A.M. Costad Salu Fernandes, Forest Guard of Idgunji Beat and Narayan Doddappa Naik, Forest Guard on checking duty at Idgunji, were both on duty at Idgunji on the coast of the Sharavati river to detect transport of illicit forest produce by the river Sharavati, on boats. With them they had kept a panch by name Remand Kaitan Daimen or Padukuli.

2. At that time a country craft boat numbered H.M.R. 3942 plied by the accused and carrying persons therein came from Gersappa side and touched the coast of the Sharavati river at Idgunji near the tea shop of one Babu Mahale. At that time Forest Guard Narayan boarded the boat and found that in that boat there were some bags containing Tali shikma. When Forest Guard Kostad and Panch Remand were about to board the craft, the accused threatened Guard Narayan and asked him to get down the boat and prevented Forest guard Coastad and the Panch Remand from entering the boat, questioning their authority to search his boat. The ~~accused~~ Forest Guards pointed out to the accused the uniform they had worn and apprised the accused of their authority and intimated to the accused of their duty and ~~intention~~ intention to inspect and search the boat and make panchanama regarding the incriminating the articles in the boat and further held the accused that they will not allow the boat to go away without a search. The accused then threatened all the three with use of violence in case they did not -

desist from entering the boat and go away, and at once moved his boat by using oars. The two guards then went to the tea-shop of Baba Mahale nearby and by the time they came with him the accused carried his boat far away in the river and had thus escaped.

3. The accused thus voluntarily obstructed the two public servants in the discharge of their public functions, and knowing or having reason to believe that an offence of illicit removal and transport of forest material was committed, caused the evidence or commission of that offence to disappear with the intention of screening the offenders from legal punishment and thus committed offence punishable under sections 186 and 201 of Indian Penal Code.

4. It is therefore prayed that -

i) the accused may be caused to be brought before this Court, tried for the offences committed by him and punished and dealt with according to law.

ii) the following witnesses may be summoned and examined on behalf of the prosecution.

Dated 15.11.1951

sd/ O. P. Mathew

I O. P. Mathew Range Forest Officer, Honavar do hereby verify that what is stated in this complaint is true to the information received by me from papers with me and that I believe that the same to be true. Signed and verified at Honavar on 15-11-1951.

sd/ O. P. Mathew

Names of witnesses to be summoned on behalf of the prosecution with their addresses:-

1. Narayan Dadasaya Naik, Forest Guard.
2. Kostad Salu Fernandes, -do-
3. Ramand Kaitan Dalman, Padukuli, Honavar. ~
4. Baba alias Rama Bhikkar Mahale, Idgunji, Honavar.
5. Inas Munvel Hadrignas, Karikurve, Honavar.

In the Court of R.M.F.C. at Honavar.

C.O.No. _____
1951.

45/13
44

The State of Bombay - by

O. P. Mathews.

Complainant.

Range Forest Officer, Honavar.

Vs.

Ramdas Laxman Mahale, Goud Saraswat Brahmin,
aged about 25 years, Rayat, residing at Sul-
ged of Jalwalli village in Honavar Taluka.

Accused.

The above named complainant begs to file this complaint against
this accused under Section 26(1), 41(2) and rule 88 thereunder, of
Indian Forest Act, as follows:-

1. The accused is a man of means having local
influence in and round about his hamlet Sulged in Jalwalli village
of Honavar Taluka.

2. With a view to construct a new building the
accused was in need of considerable timber in the year 1949 and
he attempted to secure from Kanged jungle nearby thirty khandies
of timber of Nandi and other varieties, by making an application
to the Collector, Kanara. But he got no favourable reply.

3. S.No.337 of Sulged hamlet in Jalwalli village
is held by the accused on Mulgeni right. Nearby in that land -
flows a Nala. In it found deposited were traced 12 sawn articles
of Nandi variety on 29-11-1949. Next day on 30-11-1949 were traced
34 sawn Nandi articles found deposited in a Nala near S.No.352
in Kanged locality of Jalwalli village. Later on same day in the
same locality in a field lying to the west of S.No.353 were found
fifty sawn articles of Nandi variety. In that Kanged locality in
Forest area, in Jungle S.No.381 it was discovered that very even-
ing that five Nandi trees were cut and converted into seven logs.
Near the stumps of the trees at a distance of about 150 feet a
Saw pit with a platform on it made of three round rafters of
Nandi variety was traced. On it one of the Nandi logs were
mounted and partly sawn.

. In the saw pit there was a deposit or cushion
saw dust indicating that many articles were sawn there recently.
In the saw dust a sawn rafter was also found buried.

Collected
order under
S 492
Cr P Code.
is necessary

5. All the above articles found in different places of the locality were attached under Panchanamas and were given into the custody of the Patel of Jalwalli. - It has been found that these trees were unauthorisedly felled, removed and got sawn by the accused in the said place established within the Forest area mentioned above without obtaining any previous sanction of Range Forest Officer. The accused removed the trees with the intention of doing wrongful loss to the State and with the wrongful intention of securing wrongful gain to himself.

6. The accused has thus committed offense under Section 26(1), 41(2) and Rule 88 thereunder of Indian Forest Act, punishable under section 21(1) and Section 42 read with rule 129 of the same Act.

7. It is therefore prayed that -

1) the accused may be caused to be brought before the Court and tried for the offences committed by him and punished and dealt with according to law.

ii) the following witnesses may be summoned before this Court on behalf of the prosecution and examined.

dated 15-11-1951

O. P. Matthews

I, *O. P. Matthews* Range Forest Officer, of Honavar, do hereby verify that what is stated in this application is true to my information derived from case papers with me and that I believe the same to be true. Signed and verified at Honavar on

15-11-1951.

Names and address of witnesses to be summoned in this case on behalf of prosecution.

1. Shantaram Shivram Patel Jalwalli

2) Devidas Keshav Kini Sulged

3. M. J. Naik

4. Anantrai Bhagwant Shetty

5. Krishna Nagappa Gowda

6. Pandurang Ramchandra Shetty, Kowe

7. Ganapaya Vaman Naik, Kodani

8. Ishwar Ganapati Hagede.

9. Krishna Santaya Kinal

10. Jaki Pedru Rodrigues

11. Babu Manjanath Mesta, Bandarwada, Honavar.

12. Sheshgiri Rukku Kharvi, Belkond, Honavar.

13. Ramchandra Damu, Mallakurve, Honavar.

14. Umesh Damu Kharvi, -do-

15. Kanya Manjunath, Pavinkurve, Honavar.

16. V. B. Umachgi, Range Forest Officer, Mundgoi.

13-47-73

From:- L. H. Prabhu. B.A., LL.B.
Sub. Dist. Pleader
Honavar

15-2-53

To :- Remembrance of Legal Affairs
Bombay Castle (Bombay No)

Sir,
With reference to your NO 5207/C dated
19th February 1953, sent to me through the District
Magistrate Kanara, I am sending, as required
therein, herewith enclosed the copies of two criminal
complaints, drafted by me for the Forest Department.

The same may be perused and returned
to be kept in the case paper file.

Honavar
27-2-1953

Yours faithfully
L. H. Prabhu
Sub. Dist. Pleader, Honavar

Submitted w.c. Through the District Magistrate Kanara

(900)

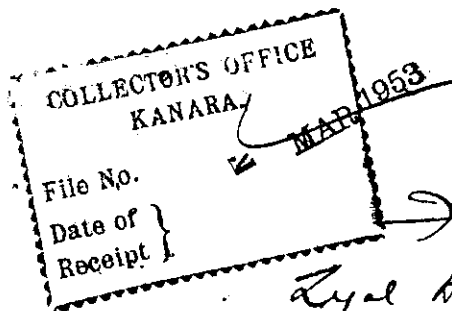
for favour of forwarding the same to
R. L. A. Bombay.

Hosur

27-2-1953

Sub. G. P. Pleader

Hosur



No. TRE/4747
Kanara 17-3-1953

Forwarded w/o the Remission of
Legal Office, Bombay.

LEGAL DEPARTMENT

24 MAR 1953

THE SECRETARY TO
LEGAL DEPARTMENT

File No. 7303

Sub No. 28(3/15)

Branch

Ad. Secy. Nagichak,
13/3. Kanara

Submitted with reference to o.n. dated
17-2-1953 at page 7 ante.

The Sub-Government Pleader, Honavar, forwards
copies of two criminal complaints (pp. // - 15 ante).
The District Magistrate, Kanara, merely passed on
the papers without any remarks. It appears that the
complaints drafted by the Sub-Government Pleader are
simple in nature and as such a fee of Rs.10/- for
each draft would be reasonable.

For orders.

2.30/3.

(Thro. A.)

88. 30/3/53

D.S. (C.L.)

[R.L.A.]

Is L.D. concerned with payment of fees
in respect of work done by a law officer
at the request of the Forest Dept. when
L.D. was not consulted. Is such consultation
necessary
What would be the fee payable if the Sub-Govt
pleader had appeared in court for one day
Are there any precedents
Don. V. S. S. S.
30/3/53

Resubmitted with reference to D.S.'s
queries above.

(1) The D.P.P. may act at the request of any
local officer under rule 43 of the Law Officers
Rules on all legal matters concerning Government
business of any kind which any such officer may
refer to him.

(2) The fee would be regulated under rule 23

L.O.(C. of S.) Rules if the Sub-G.P. appeared in the Court and conducted the case for one day vis. Rs.20/-.

(3) For precedent please see slip V in file. .
Fees Drafts/51 from which it will be seen that the Sub-G.P., Parner was allowed a fee of Rs.15/- for drafting a criminal complaint.

G.P.

S.S. 11/4/53

D.S. (Crim.)

~~Rule~~ Rule 43 does not apply to a Sub-Govt. Pleader

~~Resubmitted~~ Rule 43 also does not apply to drafting of complaints. It relates to advice to all local office
Drafting of a complaint is not advice

Please ~~consider~~ ^{consider} my first question again & answer it fully

Robert V. Yarb
2, 1-4-5

Resubmitted.

Relying on a precedent ^x in which it was held that rule 43, L.O. Rules covers the drafting of complaints, the present case was considered as falling under the said rule.

On reconsideration it appears that the case does not fall within the purview of rule 43 L.O. Rs. Since the sub-G.P. does not get any retainer like the D.G.P. ~~and as such~~ the work of drafting a complaint is not covered by his ordinary duties. Under rule 22 of L.O. (C. of C.) Rules ^{when} the Sub-Govt. P. was asked by the

D.M. at the instance of the Forest Deptt. to draft legal document, which includes a criminal complaint, he becomes entitled to a fee for the work done by him and as the Forest Deptt. is a Deptt. under the R.D. of the Provincial Govt., the work done by our Law Officer on its behalf will have to be paid from the R.L.A's grant. It is not the practice with the D.M. to consult L.D. before asking

x Slip A in
file fees
Drafts/51

19 8359

the Sub-Govt. Pleader to do such drafting. [However, such consultation ^{becomes} necessary when he asks the Sub-Govt. Pleader to draft a complaint to appear in the Court and conduct the case, instead of the Public Prosecutor.]

Q. 4/4.
SS. 4/4/53

D S (Crim) He should sanction him Rs 20/- per complaint not being the usual fees per day of attendance in Court

Sanctioned
D' 4.4.53

RLA R
6/4

21-5589

No. 6947/21-5589

Office of the
Remembrancer of Legal Affairs,
Bombay Castle (Bombay No.1), 11th April 1953.

Subject:- Fees - payment of for drafting
Criminal complaints.

Memorandum:

With reference to his letter dated 20th January 1953, on the above subject, the Subordinate Government Pleader, Honavar, is informed that for drafting the two Criminal complaints for the Forest Department, the Remembrancer of Legal Affairs, is pleased to sanction to him the payment of fee at the rate of Rs. 20/- (Rupees twenty) per complaint.

He is requested to prefer his bill accordingly on the prescribed form for the countersignature of the Remembrancer of Legal Affairs.

OC *S.B.*
for Remembrancer of Legal Affairs.

155-1
12
11/4
cks 10.4.

To

The Subordinate Government Pleader, Honavar.

Copy to :-

The District Government Pleader, Kanara,
The Treasury Officer, Honavar.

Info. for appl.
signature.
21/4. S.S. K.N.
10/4/53
S.S.

60

Letter after were
file fees draft/53

3/13/4

85. ~~11/13/4/53~~

file draft/53
14/4/53

23 77 85

From:

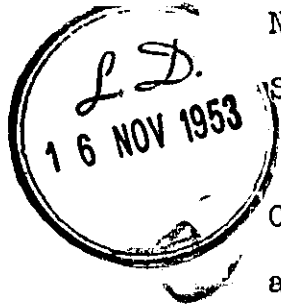
The District Government, Pleader, Kanara.

To

The Remembrancer of Legal Affairs, Bombay.

No. 769 of 1953. Karwar, dated 11th November 1953.

Sir,



Shri Q

I am enclosing herewith the letter received from the Collector of Kanara asking me to prepare a draft form of the agreement to be passed by the members of the Committee of Villagers. I have also enclosed herewith copy of the draft agreement. Under Rule 22. I am entitled to reasonable fees for preparing this agreement. I, therefore, request you to sanction the reasonable fees.

Enclosures:- 3 accompaniments.

Yours faithfully,

Bhramar Singh
Dist. Govt. Pl. Kanara.

TH	OVER M. C.
FILE NO. 27573	17/11/53
C	

25-79
25-87
Letter.

To

The District Government Pleader,
Kanara, Karwar.

No. D.D.B.-23

Karwar, 26-10-1953.

Undertakings on a stamped paper are required to be taken from the Village Committees which will be formed by the Mamlatdars for execution of the Local Works sanctioned under the Five Year Plan to the effect that the amount promised by the Villagers in respect of the local work concerned would be forthcoming and that in case of failure the Committee would hold itself personally liable for payment of the amount equal to the value of the work already done subject to the limit of popular contribution promised for the work. A copy of the G.R. sanctioning the works is enclosed for your perusal.

The draft form in which such undertakings are to be taken has not so far been received from Government. I would therefore, request you to prepare a draft form for taking the undertakings as stated above and to send it to this office early.

cc signed
by P.A.

27/10.
SB.26/10.

27/10.

COLLECTOR'S OFFICE	
KANARA.	
File No.	
Date of	28 OCT 1953
Receipt	

W. M. Shrivastava
26/10/53
Collector of Kanara.

No. 739 of 1953.
Karwar, 28-10-1953.

R.W.Cs.

2. As the programme of Development works is common to all the Districts it is desirable to have a common form of agreement. The Government must have prepared such a form. It is desirable to adopt such a common form rather than have a separate form for our district. Hence I suggest that the Government may be moved in the first instance to supply such a form. All the papers have been returned herewith.

B. G. P. Kanara
D.G.P. Kanara.

OFFICE OF THE D. D. BOARD, KANARA.	
Diary No.	<i>14</i>
File No.	<i>14</i>
Date	29 OCT 1953

No. DDB-23.

Kanwar, 28-10-53.

R.W.Cs.

Government have already been approached for sending a draft form of agreement. As it will take some time, and as the draft prepared by Govt. is received, approval cannot be given to start the work unless such an undertaking is taken it is proposed to take a temporary bond from the committee and start the work. On receipt of draft bond from Govt. a new bond will be taken. It is, therefore, requested to send the draft form of bond.

A. S. Joshi P.A.
Collector, Kanara.

27 81
\$ 89

From:

The District Government Ploader, Kanara.

To

The Collector of Kanara.

No. 768 of 1953. Karwar, dated 11th November 1953.

Sir,

As desired by your letter No.D.O.B.23/ 2-11-1953, I have sent herewith the draft of an agreement form which will have to be executed by the Committee of Villagers. *I have retained herewith copy of the G.O. sent to you*

Yours faithfully,

Bhuvanendra E
Dist.Govt.Pl.Kanara.

*True copy
Bhuvanendra E
Dy P*

29 83.4.7

Agreement dated ----- month -- 1953 passed in favour of the Government of Bombay (herein after called ' the Government, which expression shall include his successors and assigns) by the members of the Committee of Villagers ~~xx~~ as named below:

- 1.
- 2.
- 3.
- 4.
- 5.

1. In pursuance of the programme of the Local Development Works sanctioned under the five year plan by the Government of Bombay in their Resolution No.P.C.I.5253 dated 9-9-1953 ~~the members of the~~ the Committee of the Villagers named above has been formed for the purpose of :-

- (1) Construction of road (give the description and miles of the road)
- (2) Construction of drinking water wells (give the number and description)
- (3) Construction of school buildings (give full description)
in the Village of - - - taluka --- in Kanara District.

2. The above named members of the Committee of villagers agree to contribute a sum of Rs. . and / or to supply labour to the extent of Rs. ; . . for the construction of the works mentioned above .

3. The members of the Committee of villagers mentioned above do hereby agree to contribute in cash or by way of labour to the extent mentioned above within the time limit fixed by the namlatdar of the taluka. In ~~xxx~~ case of failure, the above named members bind themselves personally liable to pay the Government on demand the amount equal to the value mentioned above or any amount equal to the value of the work already done, subject to the limit of contribution fixed above

4. In case the above named members of the Committee of villagers fail to pay the above contribution when demanded by or on behalf of the Government they hereby agree that the Government is at liberty to recover the amount due from them by process as laid down in the Land Revenue Code.

5. The members of the Committee of Villagers also agree

to comply with all the orders or directions issued from time to time by or on behalf of the Government as regards the construction or constructions referred to above as also to fulfil within the time allotted ~~xx~~ all the demands made by or on behalf of Government regarding the supply of labour or cash to the extent fixed above.

6. Disputes, if any, regarding the interpretation of orders or directions or as regards the compliance thereof shall be referred to the Collector of Kanara and his decision shall be final and binding on the members of the Committee of Villagers named above.

In witness whereof signed at ----- on

No. 24095/1-87
Legal Department, 33 97
Bombay Castle (Bombay No.1), 3 November 1953.

To
The District Government Pleader,
Kanara.

Subject:- Fees -for drafting complaints-

Sir,

With reference to your letter No. 769 dated the 11th November 1953 on the above subject, I am directed to inform you that as rule 43 of the Law Officers Rules covers drafting of complaints, a District Government Pleader and Public Prosecutor is not entitled to any fees in respect thereto. I am to add that such work is covered by his retainer.

Yours faithfully,

OC
Deputy Secretary to Government,
Legal Department.

BM.
272
28.11.

*Subd for appl.
signature.*

2.28/11

S.S. DS (Ch.)

— Inks after use

Q To Fee Draft 6/53
2/2/12

85 $\frac{500}{2-12}$

· Fees drafts 6/53
2/12 15 5

From

The Public Prosecutor, Kanara, Karwar. 8999

To

The Remembrancer of Legal Affairs, Bombay.

No. 29 of 1953. Karwar, dated 23rd June 1953.

Sir,

I have enclosed herewith copy of the complaint drafted by me for an offence punishable under sec. 186 I.P.C. The Complainant who was Supply Head Karkun - a Circle Officer had been obstructed in discharge of his public functions. The Collector directed me to draft this complaint by his letter No. 75 dated 6th March 1953 but as the papers sent to me did not contain the whole record I had to ask for the same under my letter No. 190/13-3-1953. These papers were sent to me on 14-4-1953, But the complainant did not turn up till the 19th instant. Hence the complaint was drafted after receiving instructions from him. I had to go through 3 bulky files consisting of pages 1 to 209, 61 and 45. I therefore request you to sanction reasonable fees for drafting this complaint under Rule 22 of the Law Officers Rules. The original correspondence accompanies. This may please be returned along with the sanction order.

Legal Department
Secretariat, Bombay

27 JUN 1953

THE SECRETARY TO GOVERNMENT	
LEGAL DEPARTMENT	
File No.	15685
Sub No.	29/6013
Encl.	C

Yours faithfully,

Harman Singh
Public Prosecutor, Kanara.

Subject :- Prosecution against Shri S.V. ⁹⁴
Shanbhag, Mill Owner, Mavinkurve. ^{le}

No. 75 ³⁷
Office of the Collector of Kanara
Karwar, 6th March, 1953.

To

The District Government Pleader,
Kanara, KARWAR.

In forwarding herewith the case papers pages 1 to 61, you are requested to draft the complaint to be filed by Shri L.M. Naik under section 186 I.P.C. Shri L.M. Naik has been directed to see you in this connection and give necessary instructions. You may send the papers with the draft complaint to this office at an early date.

Recd 12/3/53.

Radargh
for Collector of Kanara.

Copy to Shri L.M. Naik,
Evacue Inspector, Collector's Office
Karwar with a request to see the District Government Pleader in this connection immediately & to give necessary help to him.

39-95103

Below Letter No.75 dated 6th March 1953 received from the Collector, Kanara (Supply Branch) on 10-3-53.

Rwe.

No. 190 of 1953.
Karwar: 13th March 1953.

In my letter dated 18-11-1952 I had requested you to call for the investigation papers as the complaint will have to be drafted after going through the evidence - recorded during the investigation. Page 57 is a report of the D.S.P. recommending launching of prosecution. But the investigation papers have not been sent to me with the papers now forwarded. I have therefore returned all the papers, pages 1 to 61 with a request that the investigation papers may kindly be called for and please be included in the papers for drafting the complaint. I will have to go through these investigation papers to avoid any contradictions between the case now set up and the case revealed during the investigation.

get the
by from
the DSA

COLLECTOR'S OFFICE
KANARA

File No. _____
Date of Receipt _____

13 MAR 1953

14/9

Yours faithfully,
M. S. G. S.
Public Prosecutor, Kanara,
Karwar.

41 95
Below D.G.P. Kanara's No. 190 dated 13-3-53. *105*

No. 75
Office of the Collector of Kanara,
Harwar, 14th April, 1953

Returned with compliments to the District Govt.
Pleader, Kanara.

2. The investigation papers against Shri S.V. Shanbhag
Mill Owner, Navinkurwe, are enclosed herewith for drafting
necessary complaint under section 186 I.P.C. as requested
in this office ~~letter~~ No. 75 dated 6-3-1953
3. The papers may please be returned early

Recd
14/4/53

*cc signed
by the D.S.O.*

g.m.h.
14/4
for District Magistrate, Kanara.

Enclosures
Papers in two files as
per the index

4397
107

In the Court of the R.M.F.C. Honavar.

Criminal Case No. of 1952.

Laxman Mani Naik, aged 38, Circle Officer of Mavinkurve,
and Supply Head Karkun Honavar now Circle Officer of
Susagadi in Bhatkal Complainant.

Vs.

Shripad Vithal Shanbhag, aged about 40, Mill-owner of
Mavinkurve in Honavar. Accused.

Complaint under section 186 I.P.C.

1. The complainant was the Circle Officer of Mavinkurve Circle in Honavar Taluka in April 1952. He was also incharge Supply Head Karkun. The accused was a miller licensed to Mill Government paddy. His mill was at Mavinkurve. He held a license for milling. Condition No. VI of the License says that the licensee should give all facilities at all reasonable times to the licensing authority or to any officer authorised by the licensing authority for the inspection of his account and of stocks of paddy or rice wherever they may be stored and for taking samples of such paddy or rice for examination. This license had been issued under the Bombay Rice Mills Licensing Order 1949. Clause 6 of this Order also lays down that any officer authorised by the District Magistrate may enter upon and inspect any premises in which he has reason to believe that the milling of rice by power driven machinery is taking place. The complainant was one of such persons authorised to do these duties under the District Magistrate's Order No. 66 dated 27-1-1951.

2. On 9-4-1952 the complainant had attached 25 bags of rice which were being brought from the accused's Mill on the permit held by his brother-in-law Shri V.R. Shanbhag. As it appeared that the rice had been polished and that the rice attached had been prepared out of Government paddy ^{although} the permit for milling was issued for local paddy. But the rice milled appear to be of Government paddy. Hence the complainant wanted

45 99 # 104

to verify the stock of rice and paddy held by the accused and also to examine his accounts. Hence the complainant went to the accused's Mill at Mavinkurve on 10-4-1952. But the accused avoided and put off such examination by absenting himself on the 10th. The complainant had therefore to camp at Mavinkurve on the night of 10th. As the accused did not turn up at the Mill on the 10th nor on the 11th till 10 A.M. the complainant issued a notice to the accused calling upon the accused to appear before him that day at 5 P.M. both as regards the enquiry of the attached rice and also to enable him to verify the stock. But the accused did not turn up on the 11th. He avoided the service of the notice. The notice issued to the accused was returned by the village officer of Honavar stating that the accused was avoiding the service. On 12-4-1952 the complainant reported to the mamlatdar incharge to compel ^{the accused} by process of summons in the capacity as magistrate to be present before the complainant. The Mill had been kept closed all along since the 9th April although it was in working order. There was sufficient supply for milling both in the possession of the accused and also in the godown ready to be supplied to the accused. The complainant had to seek the police aid and watch the mill premises on the 11th and 12th also. As the mamlatdar incharge took no steps the complainant had asked for orders to break open the lock of the Mill and get the mill open for verification of the stocks in the presence of the mamlatdar. But the mamlatdar incharge did not take any steps. Therefore on 13-4-1952 the complainant sent a wire to the Collector ~~with~~ apprising him of the facts. The same day the complainant discovered traces of rice and whole paddy grains burnt with husk while using it for boiling water. On the night of 14-4-1952 the Prant Officer arrived at Honavar. as also

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Tof
185
111

the Collector. The accused had appeared at Mavinkurve on the 13th but he refused to show the stock to the complainant without the mamlatdar's order. The Supply Head Clerk Shri R.S.Naik had rejoined his duties on the 13th. He asked the accused to permit the complainant and himself to enter the Mill premises and to examine or verify the stock. But the accused refused to comply. In reply to the notice issued by the complainant the accused endorsed that he was not going to permit such verification or inspection without mamlatdar's orders in writing. On the 14th the Mill was got opened by the Prant Officer and verification took place. The Prant Officer held panchanama regarding the burning of the grains of paddy and rice along with husk. Thus the accused had kept the Mill closed from 9th to 13th in order to frustrate inspection of accounts and verification of stock. During the verification by the Prant Officer it transpired that there were 2 bags of polished rice. The accused had also put up a Board that no one should enter the Mill without his permission. It appears that the accused did not permit the verification of accounts and of the stock held by him as he wanted to do away with the evidence of offences committed by him. The accused has thus committed an offence punishable under sec.186 I.P.C. He was bound to permit or allow the complainant to hold the inspection and verification of the stock as also of the accounts. He has voluntarily obstructed the complainant who was a public servant in the discharge of his public function and therefore has committed an offence punishable under section 186 I.P.C.

The following are the witnesses:

1. R.S.Naik, S.H.K.Honavar.
2. Pursayya Shivayya Naik, Ugrani of Honavar.
3. Capt. C.B.D'melle. Prant Officer. Sirsi Division. Karwar

47
Total
185
111

the Collector. The accused had appeared at Mavinkurve on the 13th but he refused to show the stock to the complainant without the mamlatdar's order. The Supply Head Clerk Shri R.S.Naik had rejoined his duties on the 13th. He asked the accused to permit the complainant and himself to enter the Mill premises and to examine or verify the stock. But the accused refused to comply. In reply to the notice issued by the complainant the accused endorsed that he was not going to permit such verification or inspection without mamlatdar's orders in writing. On the 14th the Mill was got opened by the Prant Officer and verification took place. The Prant Officer held panchanama regarding the burning of the grains of paddy and rice along with husk. Thus the accused had kept the Mill closed from 9th to 13th in order to frustrate inspection of accounts and verification of stock. During the verification by the Prant Officer it transpired that there were 2 bags of polished rice. The accused had also put up a Board that no one should enter the Mill without his permission. It appears that the accused did not permit the verification of accounts and of the stock held by him as he wanted to do away with the evidence of offences committed by him. The accused has thus committed an offence punishable under sec.186 I.P.C. He was bound to permit or allow the complainant to hold the inspection and verification of the stock as also of the accounts. He has voluntarily obstructed the complainant who was a public servant in the discharge of his public function and therefore has committed an offence punishable under section 186 I.P.C.

The following are the witnesses:

1. R.S.Naik, S.H.K.Honavar.
2. Pursayya Shivayya Naik, Ugrani of Honavar.
3. Capt. C.B.D'mello, Prant Officer, Sirsi Division, Karwar

4. Narayan Mangal Naik Shambheg now at Hadinbal.
5. Venkatesh Ramchandra Bhakta Patel of Mavinkurve.

Other witnesses will be cited if necessary.

49103/HH 2127

Below letter No. 389 dated the 23rd June 1953 received from the Public Prosecutor, Kanara, Karwar regarding request for fees for drafting Criminal complaints, with its accompaniments.

No. 15155/C
Office of the
Remembrancer of Legal Affairs,
Bombay Castle (Bombay No.1), 16th July 1953.

Forwarded with compliments to the District Magistrate, Kanara, for favour of his remarks.

He is also requested to state who conducted the prosecution ^{also} and, to forward the copy of the judgment in the case.

OC 9.3
for Remembrancer of Legal Affairs.

15.7.
BM.

Sd/- for appl.
Signature

Q.15/85 *15/7/53*
SAS

Like after some

Want copy from
Dr. M. K. Kaur (3/7-9-53)

9/10/53

85 ~~11/11/53~~ 17/7/53

51 703 117 3

From:

The Public Prosecutor, Kanara.

To

The Remembrancer of Legal Affairs, Bombay.

No. 633 of 1953. Larwar, dated 8th September 1953.

Sir;

I have not received any reply to the letters noted below asking for sanction of reasonable fees for drafting the complaints referred to therein.

1. Letter No. 341/2-6-53.
2. Letter No. 389/23-6-53
3. Letter No. 406/26-6-53
4. Letter No. 490/11-7-53
6. Letter No. 520/17-7-1953.

It may please be noted that the Public Prosecutor is asked to draft such ^{Complaints} ~~Letters~~ only when the matter is of much complicated nature and the record is usually very bulky.

Yours faithfully,

M. S. G. G. G.
Public Prosecutor, Kanara.

22240
15-9-1953
C

14 SEP 1953

Inherent. Please see P.P's letter
(overleaf)

The main papers have
been sent to the Sh. Kanesh
for his remarks on P.P's app.
(p 3 on 1c) The Sh. may be p. post-
reminded as per letter put up
herewith for approval & signature

Q28/9

85. ~~24/5/53~~ 24/5/53

RAL

Subject:-Complaint against Shri S.V. Shanbhag
under Section 186 I.P.C.

No. 75.
Karwar, 23rd Sept. 1953.

To

The Remembrancer of Legal Affairs,
Bombay.

Reference:-Your endorsement No. 1515b/C
dated 16-7-1953.



On 9-4-53, Shri L.V. Nask the Circle Officer
Mavinkurve, who was also holding charge of Shri U.K.
Honavar acting on reports of the Village Officers of
Mavinkurve that rice was being transported from
Mavinkurve mill proceeded to Honavar and attached

THE SECRETARY TO GOVERNMENT
LEGAL DEPARTMENT

File No. 23217

Sub No. 26.9.1953

Branch

C

under a panchanama 25 bags of rice which were being
transported on permit by one Shri V.R. Shanbhag brother-
in-law of Shri S.V. Shanbhag mill owner, Mavinkurve.
The panches opined that out of these 25 bags of rice
8 bags contained slightly polished rice and the remaining
17 bags contained fully polished rice. The rice was
also subjected to the "iodine test" which showed that
the rice was polished as opined by the panches, in
contravention of Bombay Licensing Order No. 98-L dated
23-12-1948. The Circle Officer on suspicion, went
to Mavinkurve to verify the stock and accounts of the
mill, Shri S.V. Shanbhag. The miller, refused admission
to the Circle Officer, locked his mill, and decamped
evading service of summons issued by the Circle Officer.
The In charge Harlatdar of Honavar turned a deaf ear
to the Circle Officer's request for police help. The
Circle Officer therefore apprised the Collector of the
facts, on 13-4-53. On the same day the Circle Officer
discovered traces of rice and whole paddy burnt with
the husk used for boiling water. On the night of 14-4
the Collector and the Prant Officer, S.D. arrived at
Honavar. Afterwards the enquiry was entrusted to the
Prant Officer, S.D. who after investigation reported
that the miller, Shri S.V. Shanbhag may be char

- i) For polishing rice
- ii) For removing the seal of the miller without authority and for dismantling the miller in contravention of the ^{Clause} ~~Column~~ 4 of the Bombay Rice Mill Licensing Order, 1949 read with Government Circular No. 92/IT dated 22-12-1948
- iii) For having burnt raddi and rice to avoid detection of offences committed by him (Section 301 of I.P.C.)
- iv) For having failed to render facilities for the inspection of the stock and accounts in contravention of condition No. 6 of the licence issued to the miller and for obstructing the public servant in the discharge of his duty (Section 186 of the I.P.C.)

The police were asked to make further investigation in the matter and to send charge sheet against the miller.

After the police investigation the District Superintendent of Police Kanara reported that there was sufficient evidence to prosecute the miller on the following charges only.

- i) The polishing of rice attached by Shri L.M. Naik Circle Officer on 9-4-52 in contravention clause 6 of the Bombay Rice Mills Licensing Order 1949.
- ii) The polishing of rice attached by the Sub-Divisional Magistrate, S.D. Kanara on 14-4-52 in contravention of the Order, quoted in (i) above.
- iii) Obstructions to Shri L.M. Naik on 14-4-52 in

offence under Section 186-I.P.C.

As regards first two items the police had already sent the charge sheet against the miller. But as regards item No. (iii) above the District Superintendent of Police requested, to direct Shri L.M. Naik Circle Officer to file a complaint in the court, the offence being non-cognizable one. The complaint for an offence under

55 109 ~~108~~ 123

Section 193 I.P.C. has to be made in writing to the court by the public servant concerned. Accordingly Shri L.M. Naik was asked to file a complaint against the Miller. The District Government Pleader, Kanara had once studied these papers in May 1952 and had disposed of the whole case in lengthy details in which the prosecution of the matter was ordered. The District Government Pleader, Kanara was therefore asked to drop the complaint in this connection and to hand over the same to Shri L.M. Naik Circle Officer.

The District Government Pleader wanted the papers of police investigation and two other small files, for drafting the complaint. Shri L.M. Naik has filed the complaint on 10-3-1953. It has not come up for hearing as yet. A copy of the judgment will be sent ^{soon} after the disposal of the case.

The papers received along with your above reference are returned herewith.

O. P. Nayak
Collector

for Collector of Kanara.

B.

No. 23427/c ⁵⁷⁻¹¹ ~~117-27~~
Legal Department,
Bombay Castle (Bombay No.1), 2107- November 1953.

To
The Public Prosecutor,
Kanara, Karwar.

Subject:- Fees - for drafting complaints -
offence under section 86 I.P.C.

Sir,

With reference to your letter No. 389 dated the 23rd
June 1953 on the above subject, I am directed to inform you
that as rule 43 of the Law Officers Rules covers the drafting
of complaints, a District Government Pleader, and Public
Prosecutor is not entitled to any fees in respect thereto., I
am to add that such work is covered by his retainer.

Yours faithfully,

Missie
21/11
BM
17.11.53
Cur
21/11

OC
San. P. Lamb
19/11
Deputy Secretary to Government,
Legal Department.

59 H.S. 129

From:

The Public Prosecutor, Kanara.

To

The Remembrancer of Legal Affairs, Bombay.

No. 490 of 1953.

Karwar, dated 11th July 1953.

Sir,

I am enclosing herewith a copy of complaint
drafted by me as requested by the District Deputy Collector
Karwar Division for an offence under section 471 read
with section 467 I.P.C. I request you to sanction reasonable
fees for drafting the same.

Yours faithfully,

B. S. S.
Public Prosecutor, Kanara.



1713

THE SECRETARY TO GOVERNMENT LEGAL DEPARTMENT	
File No.	17269
Sub No.	1713/53
2nd No.	C

61. 45/31

In the Court of the Sub-Divisional Magistrate, F.C. Karwar.

Criminal Case No. of 1953.

The District Deputy Collector, Karwar Division,
Karwar

..... Complainant

Vs.

Jayu Kom. Topu Komarpant, age 35,
agriculturist of Bobruwada, tal: Ankela... - Accused.

Complaint U/S 471 read with Sec. 467 I.P.C.

1. The accused appears to be a tenant of Bobruwada S.No. 145 pot-hissa No. 5 measuring 2 acres and 13 gunthas assessed at Rs. 14-4-6 under the landlord Govind Janardhan Mahale (witness No. 1). Shri Mahale filed tenancy suit No. 78/1951-52 alleging that the defendant had not paid in time the full rent of the year 1951-52 and therefore her tenancy rights had been terminated on 30-4-1952. He therefore sought for possession of the land. The accused was examined at Ex. No. 2 in the Court of the Mamlatdar of Ankela Shri B.M. Ganjigatti (witness No. 2) on 23-1-1953. ~~In the course of her statement she asserted that in~~ satisfaction of the rent due for the year 1951-52 she had paid to the landlord 2 khandis of rice and Rs. 63-11-0. In proof of this payment she produced receipt No. 12 marked Ex. 2-A dated 24-4-1952, purported to have been issued by landlord Govind Mahale. This landlord was examined at Ex. 1 and he admitted having passed receipt No. 91 dated 2-5-52 marked Ex. 2-B and receipt No. 98 dated 1-10-1952 marked 2-C. He denied having passed receipt No. 12 marked Ex. 2A.

2. On comparison of this receipt Ex. 2-A with the admitted receipts Exs. 2-B and 2-C it appears that Exs. 2-B and 2-C bear the heading " from Govind Janardhan Mahale Bobruwada " while Ex. 2-A does not contain these words in the printed form. Under the provisions of the B.T.A.L. Act each landlord is expected to maintain receipt books in the prescribed form with a counterpart of it. When the payment is made the signature of the tenant has to be taken on the counterpart and then the receipt has to be delivered to the tenant. It is clear that the receipt Ex. 2-A is not the one issued

by Govind Mahale from the receipt books maintained by him. *The signature of wit No.1 on this receipt appears to be forged one.* In Tenancy Appeal No. S.122/60/53 the Prant Officer as an appellate authority came to the conclusion that this receipt No.12 was not genuine and held that full rent had not been paid by the accused. The present accused had produced this receipt in the Court of the Mamlatdar which is a Revenue Court to prove that she had paid the rent in full for the year 1951-52. She had thus used this receipt dishonestly or fraudulently in this proceeding, as a genuine receipt, knowing or having reason to believe that it was a forged receipt. She had to sign the counterpart and obtain the receipt for the alleged payment but the counterpart of the receipt book maintained by Govind Mahale shows that there was no such payment made on 24-4-1952 ^{by the accused} nor was such a receipt had been issued at serial No.12 ^{by Shri Mahale}. Knowing this fully well the accused used this receipt dishonestly ~~or fraudulently with a view to claim full satisfaction~~ of the rent and to avoid the termination of her tenancy and the delivery of the property. This receipt is a valuable security within the meaning of section 467 as it is a receipt acknowledging the payment of rent. Hence the accused has committed an offence punishable under section 471 read with section 467 I.P.C.

3. Landlord Govind Mahale applied to the Court of the District Deputy Collector, Karwar Division that the accused with intent to cause loss or damage to him and with intent to support her false claim and with intent to commit fraud had got this receipt forged and had used it as genuine fraudulently or dishonestly. This application was filed on 25-4-1953 after the above stated appeal had been heard. The Prant Officer decided this case on 30-4-1953 and on 14-5-1953 he reported to the Collector that the said receipt had been used as genuine but he had come to the conclusion that it was not a genuine receipt and therefore the Public Prosecutor

should be requested to draft a complaint. He had thus and applied his mind came to the conclusion that it was necessary to file such a complaint in the interest of justice. This is a serious offence of using a forged document in the course of the trial of a tenancy suit and the Prant Officer found that the said receipt was a forged one in the course of a hearing of the appeal. As such appellate authority he had to apply his mind to this point and he came to the conclusion that it was a forged receipt. Although the receipt was originally produced in the mamlatdar's court the Prant Officer (District Deputy Collector) being the appellate authority could take cognizance of this fact under section 476 476A read with sec.195(e) and 195(3). Hence this complaint has been filed.

4. The offence is of a very serious nature. The accused had used this forged document by producing the same to prove the satisfaction of the rent and to assert that she could not be dispossessed. It is therefore necessary in the interest of justice to punish the accused adequately.

Names of witnesses:

1. Govind Janardhar Mahale of Bobruwada.
2. B.M. Ganjigatti, mamlatdar of Ankela..
3. Muzahid, Treasury Officer, Ratnagiri.

Other witnesses if found necessary will cited later on.

Handwritten signature
PP. 107/153

Handwritten signature

Dist. Deputy Collector, K. Dn. Karwa

67 121 1393

Below letter No. 490 dated the 11th July 1953 with accompani-
ments received from the Public Prosecutor, Kanara regarding fees
for drafting complaints under section 471 read with section 467
of Indian Penal Code.

No. 15982/c
Office of the
Remembrancer of Legal Affairs,
Bombay Castle (Bombay No.1), 29 July 1953.

Forwarded with compliments to the District Magistrate, Kanara
for favour of remarks. He is requested to state who conducted
the case in which the District Public Prosecutor drafted the
complaints.

15/2
6/25/7

Sd/- for appl.
signature.
BM.
28.

228/7 85
28/7/53
85

OC 9.3
for Remembrancer of Legal Affairs.

Link after some

~~214~~

Await up to
from the the reason
the 15-8-2953

9377

85 ~~11/11~~ 30/7/53

69. 123 143

Below No.15982/C dated the 29th July 1953 from
the Remembrancer of Legal Affairs, Bombay.



No. TRG/
Karwar, 9-11-1953.

Returned w.cs.

2. The complaint in question was lodged on 20-8-1953
in the Court of Sub-Divisional Magistrate, F.C., Karwar
and the Government Pleader himself is conducting it.
It has not yet come up for hearing.

Ami Q

cc Signed
by P.A.

for Collector of Karwar. P.A.
17/11

TH	NT.
7/11.	
File No.	28229
Sub No.	23/11/53
	C

7/125 147

No. 24706/—
Legal Department,
Bombay Castle (Bombay No.1), 7/12 December 1953.

To

The Public Prosecutor, Kanara,
KARWAR.

Subject:- Fees - for - drafting complaints
under section 471 read with section 467
of Indian Penal Code.

Sir,

With reference to your letter No. 490, dated the
11th July 1953, on the above subject, I am directed to
invite your attention to this Department letter No. 23427/C,
dated the 21st November 1953 and to inform you that your
request for fees for drafting complaints cannot be granted.

Yours faithfully,

J.C.
Deputy Secretary to Government,
Legal Department.

hsp/5/12

~~145~~
~~72~~ - 126

Lhs after m.c.
Rhs after 8/12/53
Rhs $\frac{50}{8-12}$

Fees Don'ts - 3
10/12/53